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IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA

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NORTHERN DIVISION

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THOMAS OTTER ADAMS,
PRO SE, PLAINTIFF

VS.

EUGENDOWN MESLEN
WARDEN III, ET AL.
DEFENDANT(S)CIVIL ACTION
2:06-CV-873-10
CSC -
HACKETT, CLERK
U.S. DISTRICT COURT
MIDDLE DISTRICT ALARESPONSE - ROLE 56RESPONSE TO DEFENDANTS, SPECIAL REPORT

COMES NOW THE PLAINTIFF, THOMAS OTTER ADAMS, A STATE PRISONER, WHO IS BEFORE THIS HONORABLE COURT, CHIEF UNITED STATES MAGISTRATE JUDGE, CHARLES S. COOK.

PLAINTIFF FILES THIS RESPONSE AND OBJECTION TO DEFENDANT(S) REQUEST FOR DISMISSAL - SUMMARY JUDGMENT, PURSUANT TO P.R. CIV. P. - ROLE 56, AND THE ORDERS OF THIS HONORABLE COURT, Document # 17-1.

IN SUPPORT OF THIS RESPONSE/OBJECTION:

THIS RESPONSE IS PART OF A CIVIL ACTION, AUTHORIZED BY 42 U.S.C. § 1983, TO OBTAIN TO THE DEFENDANT(S) RELIEF FOR A SUMMARY JUDGMENT - DISMISSAL.

I AM THOMAS ADAMS, PLAINTIFF, A STATE PRISONER, (#100612), WHO FILES AND HAS ALLEGED ~~8~~ AMENDMENT VIOLATIONS BY CO1 JOE TEE, OTHER ANOC OFFICIALS ARE ALSO NAMED.

EACH OF THESE DEFENDANTS HAVE BEEN "UNDER COLOR OF STATE LAW," TO DEPRIVE THIS PRISONER OF THE PROTECTIONS OF THE UNITED STATES CONSTITUTION.

THIS PLAINTIFF/PRISONER SEEKS DECLARATORY RELIEF PURSUANT TO 28 USC. SEC. 2201, 2202.

THIS PLAINTIFF'S CLAIMS FOR INJUNCTIVE RELIEF ARE AUTHORIZED BY 28 USC. SEC. 2283, 2284 AND RULE-65 OF F.R. CIV. P. —

THE U.S. DISTRICT COURT MIDDLE DISTRICT / NORTHERN DIVISION IS THEN THE APPROPRIATE VENUE UNDER 28 USC. SEC. 1391 (b)(2), BECAUSE IT IS WHERE THE EVENTS GIVING RISE TO THE CLAIM OF BRUTALITY / EXCESSIVE FORCE DID OCCUR.

THIS PRISONER FILES PURSUANT TO F.R. CIV. P.-56. AND NOW #56 (c) - AFFIDAVITS MADE IN BAD FAITH, IN RESPONSE TO THE ORDERS OF DOCUMENT #17-1, HONORABLE CHARLES S. CARRY.

EXCESSIVE FORCE. MERIT

THE U.S. SUPREME COURT HAS DETERMINED
 IN NUSSER V. MC MILLAN, 503 U.S. 1 (1992)
 EXCESSIVE FORCE IS ANY PHYSICAL CONTACT
 BY A PRISON GUARD (CO1 JEEZ JEEZ) THAT
 IS INTENT TO CAUSE HARM RATHER THAN
 KEEP ORDER.

THERE IS NO REQUIREMENT FOR SIGNIFICANT
 INJURY FOR AN EIGHTH AMENDMENT CLAIM.

BENDER V. BRIMLEY, 1 F.3D., 271 (5TH CIR., 1993)

FRIEDAS V. STONE, 818 F.SUPP., 1333 (D.HAW., 1993)

SIMS V. ARTEZ, 230 F.3D., 14 (2ND CIR., 2000)

CRIPPER V. CRIPPER, 193 F.3D., 89 (2ND CIR., 1999)

THERE IS A GENUINE ISSUE OF MATERIAL
 FACT, WHICH SHOWS THE EXISTENCE OF
 TRIABLE ISSUE(S).

THE ATTORNEY GENERAL'S OFFICE WAS THEN
 EXAGGERATED, STATING,

"IN MATE ADAMS FAILED TO PRODUCE ANY
 EVIDENCE THAT HE WAS MALICIOUSLY OR
 SADISTICALLY DEBAUCHED BY PRISON OFFICIALS"

THIS COMPLAINT HAS ALLEGED BRUTALITY
 AND EXCESSIVE FORCE, WHICH IS THEN
 SUFFICIENT OF ITSELF FOR AN EIGHTH
 AMENDMENT CLAIM.

THE ATTORNEY GENERAL'S OFFICE, WHOSE
IMPROPER EFFORTS TO MISLEAD THIS COURT
TO CRED EXCUSES/AIDED FOR THE ACTIONS
OF CO1 JEL TEW, (AND OTHERS) ARE THEMSELVES
BASED ON PARTIAL, INCONSISTENT, ABSURD
INACCURATE AFFIDAVITS WHICH ARE SUPPOSED
TO BE MADE UNDER A SWORN OATH!

THIS WOULD SEEM TO BE AN ACCEPTABLE
TACTIC OF A.D.C. EMPLOYEES, IN WHICH THE
HONORABLE BETTIE MCCORMICK, AND THE
WARDEN LUTHERBURN MOSLEY ARE COMPLETELY
UNAWARE THEY'VE BEEN DUPED!

THIS PRISONER PROMIS THAT THIS HONORABLE
COURT WOULD DEMAND THE MEDICAL RECORDS
OF THOMAS ADAMS - #100612, SPECIFICALLY
THOSE RECORDS ON P.H.S. IN 8-10-2006,
IN WHICH THIS PRISONER WAS EXAMINED.
DIAGNOSED AND TREATED BY NURSE BEWMAN
AND NURSE MATS FOR INJURIES SUSTAINED
ON THE ACTIONS OF CO1 JEL TEW.

THE EIGHTH AMENDMENT, PROVIDES CRUEL
AND UNUSUAL PUNISHMENTS - SEE ALSO THE
CODE OF ALABAMA'S TITLE 14
14-11-4, 14-3-9, 14-11-1
WHICH PROVIDES SANCTIONS, PUNISHMENTS, FINES
SALE TIME FOR CORRECTIONAL PERSONNEL WHO
"MALTREATS A CONVICT"

TITLE 14-3-9, PROVIDES AN INVESTIGATION,
AS DOES S.O.P. - C-28, USE OF FORCE

III

From THE ADOC's, C-28, USE OF FORCE
HANDCUFFS (2) "SHALL NEVER BE USED AS A
 METHOD OF PUNISHMENT ON AN
 INMATE"

THE ADOC's, C-28 PROVIDES THAT, "HANDCUFFS
 WILL BE PLACED IN THE LOCK-POSITION." (2-B)

THIS PRISONER MAINTAINS THAT WHEN I
 WAS TAKEN FROM CELL 5B-16 TO THE SECRECATION
 LOBBY I WAS HAND CUFFED BEHIND MY BACK.

SEE - DISCIPLINARY - 06-594 - QUESTIONS, CO1 BROWN

FURTHER MORE, THE ADOC's - C-28,
 USE OF FORCE, PROVIDES IN RELEVANT PART-
 III, PROCEDURE (C), (1). "INMATES WILL NOT
 BE PLACED IN RESTRAINTS UNLESS IT IS APPARENT
 THAT TO LEAVE THE INMATE UNRESTRAINED WOULD
 CREATE A POTENTIAL FOR _____"

THIS PRISONER MAINTAINS THAT A POWINE
 ISSUE OF MATERIAL FACT EXISTS AS TO THE
 TRUTH OF THE DEFENDANT(S), SET. C. NOLET,
 CO1 JEL TEL, CO1 DAWSON FAULSON AND
 CO1 ANTELA BROWN'S SWORN AFFIDAVITS!

SEE: CORE & ALA - TITLE 13A-10-101, PENALTY

IN DISCIPLINARY - 06-0594, RULE #29, ASSAULT
 ON A D.O.C. OFFICIAL - QUESTION TO SET. NOLET
 Q#1 - DID INMATE ADAMS PUSH CO1 TEL?
 ANSWER - "I DID NOT SEE IT"

BY HERRICO CRIDER - CO1 ANTHONY WILLIAMS

ALSO:

Q#1 TO CO1 FAULSON - DID INMATE ADAMS
 PUSH CO1 TEL?

ANSWER - "I WAS IN THE OFFICE"

TV

Plaintiff, alleges from the original complaint paragraphs 8-13, that I had asked Sgt. C. Hollett for a "body chart" due entirely to injuries received from the brutality / excessive force of CO I J. Tew.
 UET;

From Sgt. Hollett's sworn affidavit exhibit E p.2, records that, "INMATE ADAMS DID NOT ADVISE ME THAT HE NEEDED TO GO BACK TO THE NERVA CARE UNIT FOR ANY PERSON."

This prisoner maintains that Sgt. Hollett's sworn testimony is in violation of the OATH - CODE OF ALABAMA - 13A-10-101.

This prisoner maintains that on the afternoon of 8-10-2006 the day of this incident he (C. Hollett) and CO I Downing escorted me to the H.C.U. due to the initial and continued verbal requests for emergency medical care. (body-chart)

that I was examined, diagnosed and treated by P.H.S. Nurse Bowman and Nurse Motz who were on duty.

Sgt. C. Hollett's sworn testimony / affidavit is incorrect, improper and an abuse of a sworn oath!

By this Court's examination of the Plaintiff's medical file of 8-10-2006, etc. CO I J. Tew's sworn testimony / affidavit in which he says, "I grasped inmate Adams' upper body and placed inmate Adams on the floor", will show another preposterous attempt to lie.

↓

CO 1 O. JEW RECORDS FROM HIS AFFIDAVIT THAT: " I DID NOT USE EXCESSIVE FORCE AGAINST INMATE ADAMS." (EXHIBIT-B)

PLAINTIFF MAINTAINS THAT THESE CERTAIN CONTRADICTIONS IN AFFIDAVITS AND SWORN TESTIMONY, HERMAN CARP UNIT FILES AND THE ORIGINAL COMPLAINT, 42 USC § 1983, WOULD WHEN PROVEN PLACE THESE DEFENDANT(S) IN JEOPARDY OF PROSECUTION FOR PERJURY.

PLAINTIFF CONTENDS THAT IN THE CIVIL ACTION DAVIS V. BRYANT, 2:06-CV-00010-DRB, WHEN SGT. BRYANT WAS ORDERED BY ADOC'S 1 & 1 DIVISION TO SUBMIT TO A POLYGRAPH TEST HE REFUSED, WHILE INMATE DAVIS IS NOTED THAT: " NO DECEPTION."

PURSUANT TO ALA. CODE-TITLE 14-3-9 AN INVESTIGATION IS REQUIRED, BUT WAS NOT ORDERED BY WARDEN GUNDOUCHA MOSLEY.

PLAINTIFF MAINTAINS THAT LT. BRYANT, DID INTERVIEW HIM IN CELL 5B-16 ON 8-10-2006, WHERE IS THAT DOCUMENT / REPORT?

THE DEFENDANT(S) ATTEMPT AN ABSURD ACCUSATION. MADE FOR THE SOLE PURPOSE OF EXAGGERATION THAT I ATTEMPTED AN ESCAPE!

THIS IS A PREDETERMINED EFFORT TO CONVINCE THE COURT, WARDEN MOSLEY THAT AN INMATE IN A WHEELCHAIR, NAMING CHEST PAINS, WHO BEING ESCORTED BY (2) TWO PRISON GUARDS, ENCLOSED BY A PAIR OF TWENTY FOOT FENCES COULD OR WOULD TRY AND ATTEMPT ESCAPE.

VI

THE DEFENDANT(S) CLAIM FROM P. 6, SPECIAL REPORT IS THAT, "IT IS LIKELY HE WOULD HAVE MENTIONED THIS DURING HIS VISIT."

PLEASE SEE THE ORIGINAL COMPLAINT FROM ⑤, ⑥ I HAVE ALLEGED THAT DEFENDANT(S) HOLLET AND YEU REMAINED IN THE EXAM ROOM THE ENTIRE TIME. I WAS VERBALLY THREATENED AND INTIMIDATED BY BOTH DEFENDANT(S)!

ONE OF THE CLAIMS OF THE ORIGINAL CLAIM WAS A CONSPIRACY BY THE DEFENDANTS TO CONCEAL FACTS AND COVER UP ACTUAL EVENTS, DOCUMENTS / FILES.

THESE ACTIONS OF THE DEFENDANT(S) INSULT THE INTEGRITY OF THE COURT AND SERVE THE DISCOURTESY OF WASTING TIME AND/OR CAUSING UNNECESSARY DELAY. (F.R.C.P. P. 56(e))

DEFENDANT SGT. HOLLET'S AFFIDAVIT, "EXHIBIT E" IS INCONSISTENT, CONTRADICTS ANSWERS TO QUESTIONS & DISCIPLINARY # 06-594, WHICH ARE OF THE SAME INCIDENT, THIS FRAUDULENT EFFORT TO COVER-UP AN OFFICER'S BRUTALITY / EXCESSIVE FORCE, WHO WAS / IS UNDER HIS DIRECT SUPERVISION. EXAMPLES A FAILURE TO TRAIN AND THEN SUPERVISE. A LIABILITY -

PLAINTIFF MAINTAINS THAT "I WAS HAND-CUFFED BEHIND MY BACK!"

IN THE CIVIL ACTION OF INMATE GARRETT
 GAINES, (AT E.C.P. - 5 DORM) HE WAS ALSO
 HAND-CURBED BEHIND HIS BACK!

IN THE CIVIL ACTION OF INMATE RICKY
 DAVIS, (AT E.C.P. - 5 DORM) HE WAS ALSO
 HAND-CURBED BEHIND HIS BACK!

BOTH OF THESE ARE CHARGES OF AN
 EXCESSIVE FORCE / BRUTALITY!

IN THE MEDICAL EMERGENCY OF 8-10-2006,
 IT WAS NEVER NECESSARY TO RESTRAIN THIS
 PRISONER - FOR ANY REASON!

FOR THE PURPOSE OF DEFINITION, I AM
 DISABLED, HAVING HAD A RECENT HEART-ATTACK
 ON 6-28-2006, AND WHEN PUT IN THE I.C.U.
 AT TROY HOSPITAL DUE TO WRONG MEDICATIONS.

PLEASE SEE THIS PRISONER'S MEDICAL FILE -

AT THE VERY LEAST, THE COURTS HAVE
 FOUND IN ZIMMERMAN V. TIPPECANOE SHERIFFS
DEPT., 25 F. SUPP. 2D., 915 (N.D., IND., 1998)
 THAT, "A FINDER OF FACT COULD CONCLUDE THAT
 PLACING HAND-CURBS ON AN INMATE IF DONE
 WITH SUFFICIENT FORCE, COULD CAUSE PERMANENT
 NERVE DAMAGE."

THESE DEPENDANTS ARE BARRED FROM ANY
 QUALIFIED IMMUNITY DEFENSE, BECOMING LIABLE,
 WHEN THEIR CONDUCT / ACTIONS VIOLATES CLEARLY
 ESTABLISHED CONSTITUTIONAL RIGHTS OF WHICH
 ANY REASONABLE PERSON WOULD HAVE KNOWN!

VIII

"IT WOULD THEN BE ODD TO DENY AN INDUCTION TO INMATES WHO ALREADY HAD AN UNSAFE, LIFE THREATENING CONDITION IN THEIR PRISON ON THE GROUND THAT 'NOTHING YET HAPPENED TO THEM'." HELLING 509 U.S., 33

WHETHER THE USE OF FORCE USED BY THIS DEFENDANT (CO1 JOEL TEW) WAS THEN EXCESSIVE, CONSIDERING THE DEGREE OF INJURIES SUSTAINED (INMATE MEDICAL FILE) BECOMES AND REMAINS A QUESTION OF FACT FOR THE CONSIDERATION AND DETERMINATION OF THIS HONORABLE COURT OR A JURY.

HARRIS V. CHAPMAN, 97 F.3D., 489 (11th CIR., 1996)

AS TO SUMMARY JUDGMENT.

PLAINTIFFS POSITION AS TO THE DEFENDANT(S) MOTION / REQUEST FOR A SUMMARY JUDGMENT SUBMITS, SUMMARY JUDGMENT IS TO BE DENIED, THERE ARE GENUINE ISSUES OF MATERIAL FACT.

THESE CONDITIONS OF THE SEGREGATION UNIT AT EASTERLING PUTS THIS PRISONER, AS WELL AS OTHERS, AT A SERIOUS AND PREDICTABLE RISK OF INJURY IN THE FUTURE.

HELLING V. MCKINNEY, 509 U.S., 25 (1993)

THE DEFENDANT SUPERVISOR, SGT. L. NOLETT, HAS KNOWN AND KNED OF THESE CONDITIONS AND FAILED TO RESPOND IN A REASONABLE MANNER.

"DELIBERATE INDIFFERENCE"

WILSON V. SEITZ, 501 U.S., 294, (1991)

FARMER V. BRENNAN, 511 U.S., 825 (1994)

RELIEF REQUESTED

PLAINTIFFA RESPECTFULLY REQUESTS THAT
THIS HONORABLE COURT TO ISSUE A DECLARATORY
JUDGMENT;

TO ISSUE PUNITIVE DAMAGES -

TO DENY SUMMARY JUDGMENT FOR THE
DEPENDANT(S).

TO REQUIRE DEFENDANTS TO PRODUCE
A MEDICAL FILE OF PLAINTIFFA.

TO SCHEDULE FOR A JURY TRIAL -

TO REQUIRE A POLYGRAPH TEST(S).

AND AND ALL SUCH OTHER RELIEF AS MAY
BE FAIR AND JUST IN THE EYES OF THIS COURT.

TO INCLUDE AN INVESTIGATION OF THE
SEGREGATION UNIT AT EASTERLINE.

DONE THIS 11 DAY OF DECEMBER, 2006
THIS RESPONSE IS FILED PURSUANT TO
28 USC § 1746 (2), CODE OF ALA. 13A-10-101
THE POWERS OF PENJURY -

RESPECTFULLY SUBMITTED.

x Thomas Adams

THOMAS ADAMS - 100612-B
5B-12 SEC. UNIT. E.C.F.
200 WALLACE DRIVE.
CLIO, ALABAMA 36017

~

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, BY SIGNATURE, THAT
I HAVE MAILED A TRUE COPY OF "RESPONSE
TO DEFENDANT(S) - SPECIAL REPORT" FIRST-CLASS
POSTAGE PRE-PAID AND WHEN PROPERLY
ADDRESSED TO:

HONORABLE BETTIE J. CARMACK (CAR-132)
ASSISTANT ATTORNEY GENERAL
11 SOUTH UNION STREET
MONT COMERY, ALABAMA 36130

DONE THIS 11 DAY of DECEMBER, 2006

RESPECTFULLY SUBMITTED,
Thomas Adams

THOMAS ADAMS - 100612-B
SB-12, SEC UNIT - E.C.F.
200 WALLACE DRIVE
CLIO, ALA. 36017

